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COMMENTS

The enclosed is responsive to the Examiner's Office Action mailed on January 12, 2004. At the time the Examiner mailed the Office Action claims 1-45 were pending. By way of the present response the Applicant has: 1) canceled claim 15; and, 2) amended claims 1, 2, 5-9, 11, 13, 14. As such, claims 1-14 and 16-45 are now pending. The Applicant respectfully requests reconsideration of the present application and the allowance of all claims.

The Examiner objected to the drawings for failing to comply with 37 CFR 1.84(p)(4). Specifically the Examiner objected to sub block 1332 in Figure 13 and sub block 1421 in Figure 14. In response, the Applicant has filed herewith proposed changes to Figures 13 and 14 in which the references to the sub-blocks at issue have been amended to 1360 and 1421a, respectively. No new matter is being entered as each amendment is supported by the written specification as filed. The Applicant respectfully submits that by way of these changes the objections to the drawings should be removed.

The Examiner rejected independent claim 16 under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,878,228 (hereinafter "Miller"). "To anticipate a claim, the reference must teach every element of the claim" MPEP 2131. Independent claim 16 recites (emphasis added):

16. A method, comprising:

- a) generating, at a client, a request for an action to a be performed by a server to a data object, said data object being maintained by said server;
- b) sending an initial request message from said client to said server over a network, wherein said initial request message asks for a first portion of a response to said request, wherein said initial request message further comprises:
 - 1) a description of said action;
 - 2) a description of said data object;
 - 3) a first limit that defines the maximum amount of data that said server is allowed to send to said client in answering said initial request message;
 - 4) a second limit that defines a maximum datagram size that can be formed by said server in said answering said initial request message;
- c) performing, at said server, at least a part of said action to said data object; and
- d) sending a burst of reply messages from said server to said client over said network in order to provide said answering to said initial request message, wherein:
 - 1) each reply message within said burst of reply messages carries a different piece of said asked for first portion, wherein, each of said different pieces is not larger than said second limit and wherein
 - 2) the aggregate of said different pieces is an amount of data that is not larger than said first limit.

The Applicant respectfully submits that Miller fails at least to disclose the above emphasized claim language; and that, as a consequence, Miller fails to anticipate independent claim 16. Therefore independent claim 16 is allowable over the Miller reference.

According to the Examiner's stated reasoning, Col. 5, lines 7-10 of Miller disclose the above emphasized claim language ("3) a first limit that defines the maximum amount of data that said server is allowed to send to said client in answering said initial request message (Col. 5, lines 9-10); 4) a second limit that defines a maximum datagram size that can be formed by said server in said answering said initial request message (Col. 5 lines 7-8)" Examiner's Office Action mailed 2/12/04, pg. 6). Col. 5, lines 6-10 of Miller state:

The request specifies not only the file(s) to be downloaded, but also includes information that tells the server 12 how the file is to be delivered. This includes the maximum size of an individual data packet and the maximum rate at which the packets can be processed.

The Applicant respectfully submits that the "packet" of Miller might arguably anticipate the Applicant's "second limit". However, the "maximum rate" of Miller is obviously insufficient to cover the Applicant's "maximum amount of data". Here, a rate is measured in units of data per unit time (e.g., packets per second or kilobytes per second) while an amount of data is measured in units of data (e.g., megabytes or kilobytes).

The Examiner's attention is directed at least to page 16, line 9 through page 17, line 12 of the Applicant's specification in order to gain insight into support that exists in the present application for the above emphasized claim language.


The Examiner's attention is also drawn to each of the remaining independent claims (i.e., claims 1, 28 and 39). Note that each of the remaining independent claims also include "first limit" and "second limit" claim elements. In light of the above commentary, therefore, the Applicant respectfully submits that each of the independent claims in the present application are patentable over the Miller reference. Moreover, because all independent claims are allowable, all dependent claims are likewise allowable over the Miller reference.

Therefore all claims are allowable over the Miller reference; and, the Applicant respectfully requests the allowance of same.

If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at (408) 720-8300.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 5/12, 2004



Robert B. O'Rourke (Reg. No. 46,972)

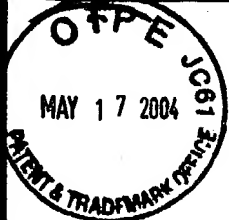
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Appendix to Amendment

Figures 13 and 14 – Replacement Sheets

Annotated Sheets Showing Changes



Updated
Stats for
Loss Event

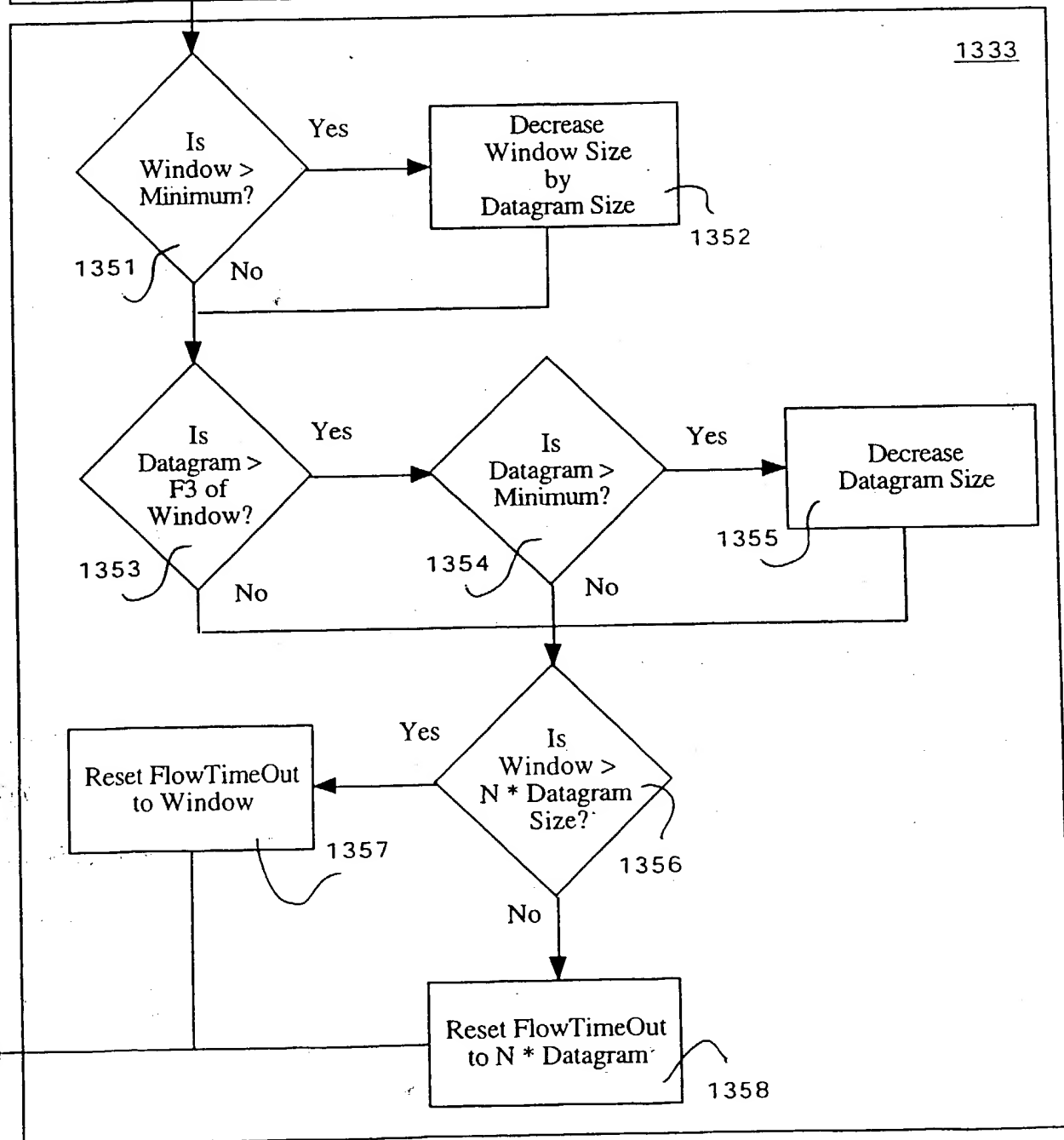
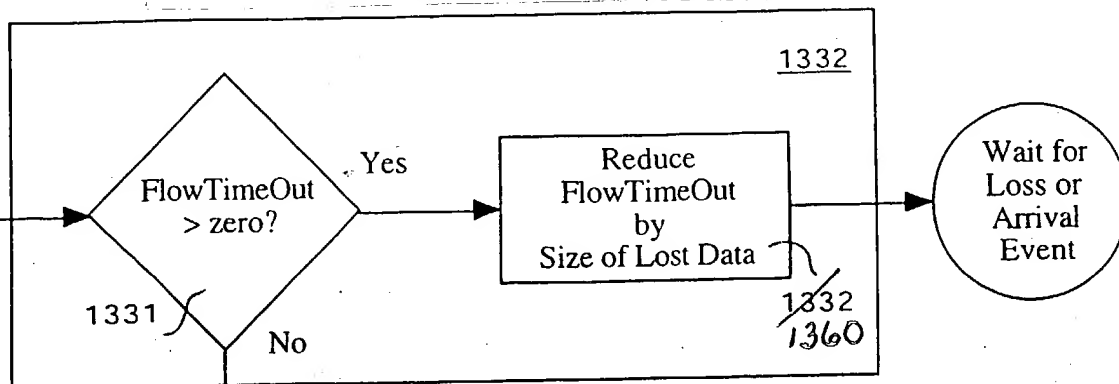


Figure 13

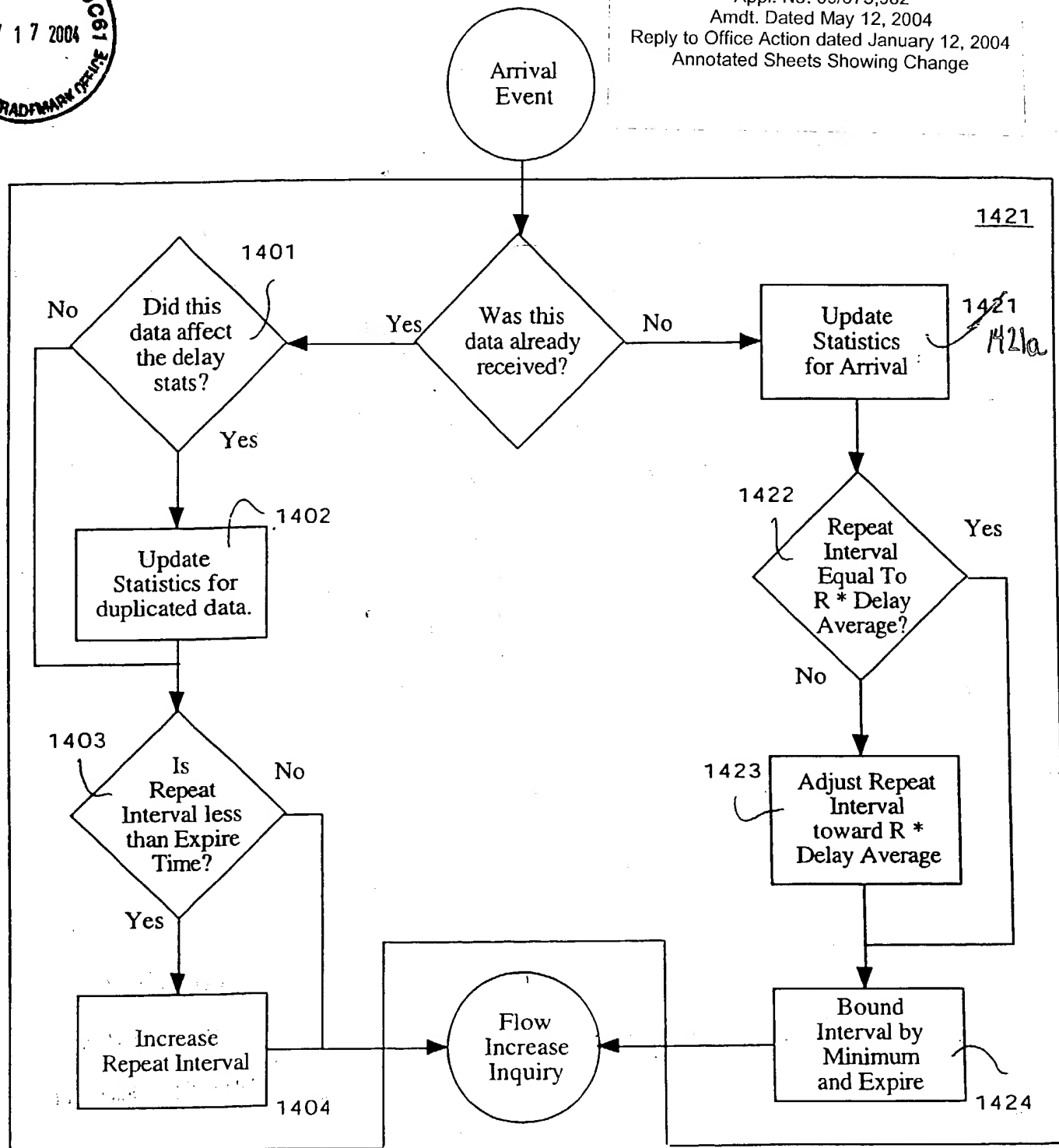


Figure 14